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09/211,268	12/14/1998	JUNJI KOBAYASHI	B208-1002	7286
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ROBIN BLECKER & DALEY 2ND FLOOR 330 MADISON AVENUE NEW YORK, NY 10017			EXAMINER	
			GENCO, BRIAN C	
		ART UNIT	PAPER NUMBER	
		2615		
DATE MAILED: 03/14/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/211,268

Applicant(s)

KOBAYASHI ET AL.

Examiner

Brian C Genco

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply****A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-12 in Paper No. 8 is acknowledged.

### ***Priority***

Examiner notes that WO 98/46022, filed with the IDS is used in a rejection of claims 1, 3, 4, and 7 however, as WO 98/46022 is intervening art between applicant's filing date and applicant's claim to priority examiner requests that English translations of the foreign priority documents be submitted.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 6,226,448 to Takagi et al).

In regards to claim 1 Takagi et al, herein Takagi, discloses a video camera having an approximately rectangular parallelepiped shape extending longer in a height direction of a body thereof in an image pickup state, said video camera comprising:

a display part of approximately rectangular shape disposed on a side face of the video camera body to display a picked-up image (e.g., element 10 of Fig. 21); and

a moving member for enabling said display part to move between a first position in which said display part makes the picked-up image viewable and a second position in which said display part is stowed in the video camera body (e.g., Fig. 21, the first position is as shown in the figure and the second position is when the display part is aligned with the camera),

wherein, when said display part is in the second position, a major-side direction of said display part coincides with a major-side direction of the video camera body (e.g., Fig. 21).

In regards to claim 2 Takagi discloses a video camera according to claim 1 wherein, when said display part is in the first position, an image pickup optical axis of the video camera body is approximately perpendicular to a display plane of said display part and a minor-side direction of said display part coincides with the major-side direction of the video camera body (e.g., Referring to Fig. 21 if the angle  $\theta_0$  is rotated to 90 degrees the optical axis of the display is perpendicular to the optical axis of the pickup device. Also, if the angle is rotated to 90 degrees a minor-side direction of the display part, namely the bottom of it, coincides with the major-side direction of the camera body).

In regards to claim 3 Takagi discloses a video camera according to claim 1, wherein, when said display part is in the first position, an image pickup optical axis of the video camera body is approximately parallel with a display plane of said display part and a minor-side direction of said display part coincides with the major-side direction of the video camera body (e.g., Referring to Fig. 21 if the angle  $\theta_0$  is rotated to 90 degrees the display plane is parallel to the optical axis of the pickup device. Also, if the angle is rotated to 90 degrees a minor-side

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direction of the display part, namely the bottom of it, coincides with the major-side direction of the camera body).

In regards to claim 4 Takagi discloses a video camera according to claim 1, wherein a length in a minor-side direction of said display part is approximately equal to a length in a minor-side direction of the video camera (e.g., See Fig. 21).

2. Claims 1, 7, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 5,790,193 to Ohmori).

In regards to claim 1 Ohmori discloses a video camera having an approximately rectangular parallelepiped shape extending longer in a height direction of a body thereof in an image pickup state (e.g., See Fig. 5), said video camera comprising:

a display part of approximately rectangular shape disposed on a side face of the video camera body to display a picked-up image (e.g., element 10 of Fig. 1); and  
a moving member for enabling said display part to move between a first position in which said display part makes the picked-up image viewable and a second position in which said display part is stowed in the video camera body (e.g., according to the arrangement of Figs. 1 and 2 the display would be able to either face inwards and be in second position or face outward and be in a first position; column 3, lines 52-54),

wherein, when said display part is in the second position, a major-side direction of said display part coincides with a major-side direction of the video camera body (e.g., Fig. 1).

In regards to claim 7 Ohmori discloses a video camera according to claim 1, further comprising:

operation means operable for displaying a reproduced image at said display part (e.g., elements 30, 32, 34, and 36 of Fig. 2; column 3, lines 32-46)

wherein said operation means is disposed at a lower portion of the side face of said display part on which said display part is connected to the video camera body, and is arranged to be exposed outside when said display part is in the first position and to be covered by said display part when said display is in the second position (e.g., refer to examiners notes on the rejection of claim 1).

In regards to claim 8 Ohmori discloses a video camera according to claim 1, wherein said moving member is connected to a minor side of said display part at a position which deviates from a center line of the minor side of said display part (e.g., The moving member is connected to a minor side of the display, namely the minor side moving up to down as shown in Fig. 2 where the moving member is element 26 and the display part is element 10. Note that in Fig. 2 Ohmori discloses that the moving member deviates from the center line of the minor side, namely it's on the end).

In regards to claim 9 Ohmori discloses a video camera having an approximately rectangular parallelepiped shape extending longer in a height direction of a body thereof in an image pickup state, said video camera comprising:

a display part of an approximately rectangular shape disposed on a side face of the video camera body to display a picked-up image (e.g., element 10 of Fig. 1);

a fist member for enabling said display part to rotate around a first shaft approximately parallel with an incident optical axis from a state where a major-side direction of said display

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part is situated approximately parallel with a major-side direction of the video camera body (e.g., element 22 of Fig. 1); and

a second member for enabling said display part to rotate around a second shaft perpendicular to the incident optical axis in such a state that said display part has rotated approximately 90 degrees from the state where the major-side direction of the video camera body (e.g., element 24 of Fig. 1)

3. Claims 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 5,659,361 to Jin).

In regards to claim 9 Jin discloses a video camera having an approximately rectangular parallelepiped shape extending longer in a height direction of a body thereof in an image pickup state (e.g., See Figs. 4A and 4B), said video camera comprising:

a display part of an approximately rectangular shape disposed on a side face of the video camera body to display a picked-up image (e.g., element 2' of Fig. 4B);

a first member for enabling said display part to rotate around a first shaft approximately parallel with an incident optical axis from a state where a major-side direction of said display part is situated approximately parallel with a major-side direction of the video camera body (e.g., if the display was rotated 90 degrees to the right from the orientation shown in Fig. 4A the major-side directions of the display and the camera body would be parallel. Further the rotation means for changing the orientation of the display is shown in Fig. 3B. In the orientation discussed above the first shaft, element 4 of Fig. 3B would be parallel with the optical axis.); and

a second member for enabling said display part to rotate around a second shaft perpendicular to the incident optical axis in such a state that said display part has rotated

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approximately 90 degrees from the state where the major-side direction of the video camera body (e.g., element 6 of Fig. 3B)

In regards to claim 10 Jin discloses a video camera according to claim 9, wherein said second member includes:

a rotating member disposed at a central portion of a side face along a minor side of said display part (e.g., As shown in Fig. 3B the minor side face, namely the one shown on the rightmost side of the display part is attached at the center to the rotating member element 4); and

a sliding member fixed to the video camera body and arranged to slide along the side face of said display part (e.g., element 9 of Fig. 3B).

In regards to claim 11 Jin discloses a video camera according to claim 10, wherein said display part is made rotatable when said rotating member and said sliding member fittingly engage with each other (e.g., Fig. 3B).

4. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by (WO 9846022 to Kawaguchi et al).

In regards to claim 1 Kawaguchi et al, herein Kawaguchi, discloses a video camera having an approximately rectangular parallelepiped shape extending longer in a height direction of a body thereof in an image pickup state (e.g., See Fig. 1), said video camera comprising:

a display part of approximately rectangular shape disposed on a side face of the video camera body to display a picked-up image (e.g., element 4 of Fig. 1); and

a moving member for enabling said display part to move between a first position in which said display part makes the picked-up image viewable and a second position in which said

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display part is stowed in the video camera body (e.g., according to the arrangement of Fig. 1 the display would be as shown and be in a first position or be closed and in a second position),

wherein, when said display part is in the second position, a major-side direction of said display part coincides with a major-side direction of the video camera body (e.g., Fig. 1).

In regards to claim 2 Kawaguchi discloses a video camera according to claim 1 wherein, when said display part is in the first position, an image pickup optical axis of the video camera body is approximately perpendicular to a display plane of said display part and a minor-side direction of said display part coincides with the major-side direction of the video camera body (e.g., Fig. 1).

In regards to claim 4 Kawaguchi discloses a video camera according to claim 1, wherein a length in a minor-side direction of said display part is approximately equal to a length in a minor-side direction of the video camera (e.g., Fig. 1).

In regards to claim 7 Kawaguchi discloses a video camera according to claim 1, further comprising:

operation means operable for displaying a reproduced image at said display part (e.g., zoom control in display shown in Fig. 1)

wherein said operation means is disposed at a lower portion of the side face of said display part on which said display part is connected to the video camera body, and is arranged to be exposed outside when said display part is in the first position and to be covered by said display part when said display is in the second position (e.g., Fig. 1).

*Claim Rejections - 35 USC § 103*

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,790,193 to Ohmori) in view of (USPN 6,169,854 to Hasegawa et al).

In regards to claim 5 Ohmori does not explicitly disclose nor preclude a video camera according to claim 1, further comprising:

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sound output means for outputting a sound in company with display of a reproduced image at said display part,

wherein said sound output means is disposed at a lower portion of the side face of said display part on which said display part is connected to the video camera body, and is arranged to be exposed outside when said display part is in the first position and to be covered by said display part when said display part is in the second position.

It is known in the art to have sound output means on a display as taught by Hasegawa et al, herein Hasegawa. Hasegawa discloses having a speaker (element 440 of Fig. 8) on an external display device. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have added a speaker to the display part in order to "provide information regarding the functions of the camera 100 and the photo-taking scenes by means of voice sounds (column 7, lines 60-62)." As such, it would be displayed in the first position and covered in the second position as discussed in the rejection of claims 1 and 7.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,790,193 to Ohmori) in view of (USPN 5,982,429 to Kamamoto et al).

In regards to claim 6, Ohmori does not explicitly disclose nor preclude a video camera according to claim 1, further comprising:

sound-volume adjusting means for adjusting volume of a sound outputted in company with display of a reproduced image at said display part,

wherein said sound-volume adjusting means is disposed at a lower portion of the side face of said display part on which said display part is connected to the video camera body, and is

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arranged to be exposed outside when said display part is in the first position and to be covered by said display part when said display part is in the second position.

It is known in the art to have sound-volume adjusting means as taught by Kamamoto et al, herein Kamamoto. Kamamoto discloses a speaker 41 and a volume switch 38c as shown in Fig. 5. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have added a volume switch to the display part in order to adjust audio output of the speaker (column 9, lines 25-38). As such it would be displayed in the first position and covered in the second position as discussed in the rejection of claims 1, 5, and 7.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,790,193 to Ohmori) in view of (USPN 5,559,554 to Uekane et al).

In regards to claim 12 Ohmori discloses a video camera according to claim 9, further comprising:

control means for causing said display part to display an image with a minor-side direction of said display part put on a horizontal plane, when the state where the major-side direction of said display part is situated approximately parallel with the major-side direction of the video camera body (e.g., Fig. 2. Note that Ohmori discloses a rotate button 36 for rotating an image displayed on the screen by 90 degree intervals; column 3, lines 37-39)

Ohmori does not disclose detection means for detecting the state where the major-side direction of said display part is situated approximately parallel with the major-side direction of the video camera body.

It is known in the art to have detection means for detecting an orientation of a display and correcting for that orientation as taught by Uekane et al, herein Uekane. Uekane discloses

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gravitational direction detecting means so as to determine the orientation of the display and then sending instructions to a display driver accordingly; column 10, lines 3-16). Therefore it would have been obvious to one of ordinary skill in the art to have made the rotate button disclosed by Ohmori an internal detector for detecting the orientation of the display in order to eliminate the need for a separate button and thus make Ohmori's invention more user friendly.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(USPN 5,979,764 to Swyst et al)

(USPN 5,739,859 to Hattori et al)

(USPN 5,960,156 to Nishiyama et al)

(USPN 6,091,450 to Hirasawa)

(USPN 4,856,045 to Hoshina)

(USPN 5,886,735 to Bullister)

(USPN 6,115,069 to Kuroki et al)

(USPN 4,928,300 to Ogawa et al)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 703-305-7881 or by fax at 703-746-8325. The examiner can normally be reached on Monday thru Friday 8:00am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology center 2600 customer service office whose telephone number is 703-306-0377.

Brian C Genco  
Examiner  
Art Unit 2615

March 10, 2003

*AS 1.M*  
AUNG S. MIA  
SEARCH EXAMINER